

Case Nos. 18-SW-00358-LMC
18-SW-00359-LMC
18-SW-00360-LMC

AFFIDAVIT FOR SEARCH WARRANTS

I, Robert Evans, a Detective with the Kansas City, Missouri Police Department, do hereby state under oath that this affidavit is in support of the issuance of three search warrants to search three cellular telephones: (1) Kyrocera cellular flip phone DEC# 268435462503505188, HEX#A0000413557C24; (2) an LG smart phone with a brown/clear colored case, no identifying numbers visible; and (3) an LG smart phone with a cracked screen, no identifying numbers visible (hereinafter referred to as "**Target Telephones**"), as there is probable cause to believe each phone contains evidence of a crime or will lead to evidence of a crime.

1. I am a Detective with the Kansas City, Missouri Police Department (KCMOPD) and have been so employed for 21 years. I have been assigned to the KCMOPD Drug Unit for 13 years, and the Federal Bureau of Investigation (FBI) Metro Gang Squad for approximately one year. During my tenure, I have been involved in numerous investigations of individuals for importing and distributing controlled substances and possessing and trafficking illegal firearms. I have communicated extensively with other state and federal law enforcement personnel, who specialize in narcotics and firearms investigations. I have extensive experience interviewing defendants, participating witnesses, informants, and other persons with personal experience and knowledge of narcotics and illegal firearms trafficking.

2. This affidavit contains information necessary to support probable cause for this application. It is not intended to include every fact or matter observed by me or known by law enforcement. The information provided is based on my personal knowledge and observations during the course of this investigation, information conveyed to me by other law enforcement

officials and others, and my review of records, documents, and other physical evidence obtained during this investigation.

ITEMS TO BE SEARCHED AND EVIDENCE TO BE SEIZED

3. This affidavit is in support of search warrants for the search of three cellular telephones collectively referred to as the **Target Telephones**. Each phone is more specifically described as:

- a. Kyrocera cellular flip phone DEC# 268435462503505188 HEX#A0000413557C24 ("Target Telephone 1");
- b. LG smart phone with a brown/clear colored case, no identifying numbers visible ("Target Telephone 2"); and
- c. LG smart phone with a cracked screen, no identifying numbers visible ("Target Telephone 3").

4. The **Target Telephones** are currently secured as evidence at the Kansas City, Missouri Police Department in Kansas City, Missouri, in the Western District of Missouri.

5. The property to be seized from the **Target Telephones** is described as follows: Electronic data contained within the phone, to include: Call logs of incoming, outgoing, missed, saved or stored calls; Saved directories of names, physical addresses and telephone/pager/fax numbers; Email addresses as well as emails drafted, stored, sent and/or received; Received, sent, stored and/or deleted messages in textual or voice; Text, SMS, MMS and EMS messages received, sent, stored, drafted and/or deleted; Audio, photographs and movie data that were device created or not, but received, stored, viewed, transmitted or deleted; Memos in a textual or voice format, be they stored, deleted, sent, received and/or drafted; Stored data/information to include, but not limited to, the device's owner and/or user, Internet activity; Stored calendar data; and Stored, received, device-created, transmitted, and/or deleted GPS data.

OFFENSES UNDER INVESTIGATION

6. Based upon my training and experience and on the facts set forth in this affidavit, I believe the **Target Telephones** contain evidence of violations of Title 21, United States Code, Sections 841 and 846 (distribution of a controlled substance or conspiracy to distribute controlled substances), and Title 18, United States Code, Section 922(g)(1) (possession of a firearm by a prohibited person.)

PROBABLE CAUSE

7. On September 6, 2018, detectives with the KCMOPD's Gang Squad utilized a Confidential Informant (CI) to make a controlled purchase of cocaine base from 3708 Bellefontaine Avenue, Kansas City, Western District of Missouri. Prior to the purchase, the CI placed a call to the unidentified black male on his cell phone to arrange the purchase of cocaine base (also referred to as crack cocaine). The cell phone number dialed by the CI was (816) 778-9811. The CI was searched before the transaction and did not have any narcotics, money, or other contraband. The detectives provided the CI with pre-recorded buy money before the CI entered 3708 Bellefontaine Avenue. After the CI exited 3708 Bellefontaine Avenue, the CI provided detectives with approximately 1.2 grams of purported cocaine base. That substance was field tested using the Scott Reagent test kit with positive results to the presence of cocaine, a schedule II controlled substance.

8. On September 13, 2018, detectives with the KCMOPD's Gang Squad utilized a Confidential Informant (CI) to make a second controlled purchase of cocaine base from 3708 Bellefontaine Avenue, Kansas City, Western District of Missouri. Prior to the purchase, the CI placed a call to the same unidentified black male using phone number (816) 778-9811 to arrange the purchase of crack cocaine. The CI was searched prior to the transaction with negative

results. Again, the CI was provided with pre-recorded buy money. After exiting 3708 Bellefontaine Avenue, the CI provided the detectives with approximately 0.6 grams of purported crack cocaine. The substance was field tested using the Scott Reagent test kit with positive results to the presence of cocaine, a Schedule II controlled substance.

9. On September 14, 2018, detectives with the KCMOPD's Gang Squad applied for and received a search warrant for 3708 Bellefontaine Avenue, Kansas City, Western District of Missouri. The search warrant was signed by Judge Standridge of the Jackson County, Missouri Circuit Court.

10. On September 20, 2018, detectives with the KCMOPD's Gang Squad utilized a Confidential Informant (CI) to make a third controlled purchase of cocaine base from 3708 Bellefontaine Avenue, Kansas City, Western District of Missouri. Prior to the purchase, the CI placed a call to the same unidentified black male using phone number (816) 778-9811 to arrange the purchase of crack cocaine. The CI was searched prior to the transaction with negative results. Again, the CI was provided with pre-recorded buy money. After exiting 3708 Bellefontaine Avenue, the CI provided the detectives with approximately 0.7 grams of purported crack cocaine. The substance was field tested using the Scott Reagent test kit with positive results to the presence of cocaine, a schedule II controlled substance.

11. On that same date, September 20, 2018, members of the KCMOPD's Street Tactical Unit executed the search warrant at 3708 Bellefontaine Avenue, Kansas City, Western District of Missouri. When the officers gained entry into the residence, Mitchell Byrd (BM, DOB: 02/13/1979) was located standing in the living room near a glass table. After a thorough search, officers confirmed Byrd was the sole occupant of the residence.

12. Upon further search of the residence, detectives located the items listed below:

a. Living Room:

- i. A black Glock, Model 23, .40 caliber semi-automatic pistol, bearing Serial Number VMD610. The firearm had a rubber hand-grip and contained a magazine with eighteen (18) .40 caliber rounds, one of which was in the chamber. The firearm was located in plain view on the glass table and within reach of Byrd.
- ii. A clear plastic bag containing approximately 2.9 grams of a green leafy substance that field-tested positive for the presence of marijuana was located on the glass table near the firearm.
- iii. \$121 of United States currency in several denominations (\$20, \$5, and \$1) was located on the glass table. The pre-recorded buy money from the transaction conducted by the CI before the execution of the search warrant was found in this money.
- iv. A square plate that contained a razor blade and crushed up beige rock-like substance was located on the fireplace. The beige rock-like substance weighed approximately 5.8 grams and field-tested positive for the presence of cocaine.
- v. **Target Telephone 1** – A Kyocera cellular flip phone located on the TV stand.
- vi. **Target Telephone 2** – An LG Smart phone located on the TV stand.
- vii. **Target Telephone 3** – An LG Smart phone with a cracked screen located on the floor next to the TV stand.

b. Northeast Bedroom:

- i. A clear bag containing a beige rock-like substance weighing approximately 40 grams, was located on the floor. The beige rock-like substance field-tested positive for the presence of cocaine.
- ii. \$1,100 of United States currency in several denominations (\$50, \$20, \$10, \$5, and \$1) located on the floor near the beige rock-like substance.

iii. Two Missouri License Plates of 7AW-873. A computer check of the license plate responded back to Shantae Byrd with a transfer on death to Mitchell Byrd. The plates are registered to a 2001 GMC pickup truck and an address of 7117 Flora, Kansas City, Missouri 64131.

c. Garage:

i. A stolen black Dodge Charger

13. After the collection of the items found inside 3708 Bellefontaine Avenue, a detective called (816) 778-9811, the phone number used to arrange the previous crack cocaine purchases. When the number was dialed, **Target Telephone 3** began to ring.

14. On September 20, 2018, during a post-arrest *Mirandized* statement, Mitchell Byrd admitted he was married to a female with the first name of "Shantae" (same name located on the Missouri License plated located in the search warrant address).

15. On September 21, 2018, in the Western District of Missouri, Mitchell Byrd was charged by way of complaint with a violation of Title 18, United States Code, Section 922(g)(1) (Felon in Possession of a Firearm).

16. A review of Mitchell Byrd's criminal history revealed the following:

- a. April 26, 1999 conviction for Possession of a Controlled Substance, Circuit Court of Jackson County, Missouri, Case Number 16CR97001320. He received a three-year sentence to be served concurrently with his federal sentence in 00-00170-01-CR-W-FJG.
- b. April 26, 1999 conviction for Possession of a Controlled Substance, Circuit Court of Jackson County, Missouri, Case Number 16CR98004660-01. He received a five-year sentence to be served concurrently with his federal sentence in 00-00170-01-CR-W-FJG.
- c. September 19, 2000 conviction for Felon in Possession of a Firearm, Western District of Missouri in Case Number 00-00170-01-CR-W-FJG. He received 57 months' imprisonment with three years of supervised release to follow. On November 8, 2005, his supervised release was revoked and he was sentenced to 24 months in custody.

- d. May 8, 2009 conviction for Murder in the Second Degree and Armed Criminal Action, Jackson County, Circuit Court, Case Number 0716-CR03592-01. He received ten (10) years in prison on the murder and three (3) years on the armed criminal action.
- e. May 8, 2009 conviction for Murder in the Second Degree, Jackson County, Circuit Court, Case Number 0716-CR03593-01. He received ten (10) years in prison.
- f. Pending case filed on February 14, 2018, Trafficking in Drugs in the Second Degree for cocaine base and Resisting Arrest by Fleeing, Jackson County Circuit Court, Case Number 1816-CR00689-01. He posted bond on February 14, 2018.

17. The affiant knows, through training and experience, it is common for narcotic traffickers to utilize “flip phones” (commonly referred to as “throwaway” or “burner” phones) to deter law enforcement detection due to the ease of replacing them. The affiant also knows narcotic traffickers utilize “smart phones” to password protect the contents of the phone to deter law enforcement from observing the contents of the phone. The affiant knows, again through training and experience, narcotic traffickers will often carry firearms to protect their narcotics or the proceeds from their narcotic sales.

18. The affiant also knows the following facts: Investigators know drug traffickers commonly carry multiple phones to communicate with friends/family, customers, and source of supplies for their narcotics. Investigators also know individuals who deal in illegal controlled substances commonly maintain addresses or telephone numbers in mobile telephones, utilizing the internal mobile phone electronic storage, which reflect names, addresses and/or telephone numbers for their associates, to include sources of supply, distributors, and customers, in their criminal organizations. In addition to continuing their illegal businesses, these individuals utilize mobile telephone systems to maintain contact with their criminal associates. In addition, most mobile telephones on the market today have built in electronic digital cameras and video

capabilities. Individuals who deal in illegal controlled substances take, or cause to be taken, photographs of themselves, their associates, their properties, their illegal products, and the cash proceeds from these illegal transactions. These individuals usually maintain these photographs and videos in the internal electronic storage of the mobile telephone. It is the affiant's belief that there is additional evidence of narcotics trafficking stored in the listed cellular phones found during the execution of a search warrant based on controlled buys of cocaine base.

19. It is the affiant's belief that there is additional evidence of narcotics trafficking stored in the **Target Telephones** found during the execution of a search warrant. The affiant also believes additional evidence indicating ownership, dominion, or the user of the device will be stored within the **Target Telephones**. This belief is based on the evidence of narcotics trafficking around and associated with the cellular telephones, to include: the **Target Telephones** located in the living room of the residence; **Target Telephone 3** was used to arrange three previous narcotics transactions; the large amount of cocaine base located inside the residence; the large amount of U.S. currency inside the residence that contained pre-recorded buy money; and the firearm in close proximity to the pre-recorded buy money, the cocaine base on the plate, Mitchell Byrd, and the **Target Telephones**. Based on the foregoing, the affiant is requesting search warrants for the **Target Telephones** currently held by KCMOPD in the Western District of Missouri.

20. The following items to be seized from the **Target Telephones** is described as follows: Electronic data contained within the phone, to include: Call logs of incoming, outgoing, missed, saved or stored calls; Saved directories of names, physical addresses and telephone/pager/fax numbers; Email addresses as well as emails drafted, stored, sent and/or received; Received, sent, stored and/or deleted messages in textual or voice; Text, SMS, MMS

and EMS messages received, sent, stored, drafted and/or deleted; Audio, photographs and movie data that were device created or not, but received, stored, viewed, transmitted or deleted; Memos in a textual or voice format, be they stored, deleted, sent, received and/or drafted; Stored data/information to include, but not limited to, the device's owner and/or user, Internet activity; Stored calendar data; and Stored, received, device-created, transmitted, and/or deleted GPS data.

FURTHER SAYETH AFFIANT NAUGHT.



ROBERT EVANS
Detective
Kansas City, Missouri Police Department

Subscribed to and sworn to before me
this 18 day of October 2018.



HONORABLE LAJUANA M. COUNTS
United States Magistrate Judge
Western District of Missouri